Co. v. Wilcox, 116 Fed., 913; *Seeley v. Citizens Traction Co.,* 179 Pa. St., 334; *Kowalke v. Milwaukee Co.,* 103 Wis., 472. *Contra, Great Northern Ry. Co. v. Fowler,* 136 Fed., 118; *McCarthy v. H. & T. C. Ry. Co.,* 21 Tex. Civ. App., 568. A promise of employment, though indefinite, is generally sufficient consideration. *Hobbs v. Electric Light Co.,* 75 Mich., 550; *Quebe v. G. C. & S. F. Ry. Co.,* 98 Tex., 6; *Rhoades v. Ry. Co.,* 49 W. Va., 494. *Contra, G. C. & S F. Ry. Co. v. Winton,* 7 Tex. Civ. App., 57. And since a written release is presumed to be valid, a mere preponderance of evidence of fraud is not sufficient to set it aside. *Davis v. Weatherly,* 119 Ill., App., 238; *McCall v. Bushnell,* 41 Minn., 37; *McFarland v. Mo. Pac. Ry. Co.,* 125 Mo., 253; *Bouten v. Railroad,* 128 N. C., 337.

TELEGRAPHS—DELAY—PERSONS ENTITLED TO DAMAGES.—MAXVILLE V. WESTERN UNION TELEGRAPH CO., 140 S. W., 464, (TEX.).—Plaintiff arranged with a hospital and with her mother for the shipment of her husband's body, in the event of his death, to a certain place, and a telegram sent by the hospital to the plaintiff's mother, announcing the husband's death, and fixing the place of burial, unless otherwise notified, was delayed; but it did not appear that the telegraph company knew of the plaintiff's relationship with the deceased, or that the addressee was plaintiff's agent to receive the telegram, or of anything connecting it with the beneficiary. *Held,* that damages for mental suffering to plaintiff from its delay could not have been in contemplation of the parties to the contract, and plaintiff could not recover.

In several states, in actions for non-delivery, or delay in delivering a telegram, damages for mental suffering without other injury are recoverable. *Tel. Co. v. Van Cleave,* 107 Ky., 513; *Tel. Co. v. Adair,* 115 Ala., 441; *Cowan v. Tel. Co.,* 122 Ia., 379; *Green v. Tel. Co.,* 136 N. C., 489. But this doctrine has sometimes been limited to cases where the addressee was sent for to be present in case of sickness or death or burial. *Tel. Co. v. McCaul,* 115 Tenn., 99; *Tel. Co. v. Westmoreland,* 151 Ala., 319. And even in such cases, there must be a close relationship between the addressee and the person concerning whom the message was sent. *Tel. Co. v. Ayres,* 131 Ala., 391; *Lee v. Tel. Co.,* 130 Ky., 202. And the defendant must have notice that its negligence would probably cause mental suffering. *Tel. Co. v. Raines,* 78 Ark., 545; *Tel. Co. v. Brown,* 71 Tex., 723. But the fact that the message relates to sickness or death is itself sufficient notice that mental suffering will result from failure to deliver it. *Lyles v. Tel. Co.,* 77 S. C., 174; *Foreman v. Tel. Co.,* 141 Ia., 32. And the notice does not necessarily have to show that the plaintiff was the particular person who would suffer, if the message was for his benefit. *Landie v. Tel. Co.,* 124 N. C., 528. But it has been held, on the other hand, that the defendant must have notice of the plaintiff's connection with, or interest in, the message. *Tel. Co. v. Gotcher,* 93 Tex., 114; *Tel. Co. v. Potts,* 120 Tenn., 37; *Tel. Co. v. Northcutt,* 158 Ala., 539. It is not, however, necessary that the plaintiff should be either the sender or the sendee of the message. *Landie v. Tel. Co.,* 124 N. C., 528; *Tel. Co. v. Cooper,* 71 Tex., 507.

TRADE-MARKS AND TRADE-NAMES—INFRINGEMENT—DECEPTION IN USE AS A BARRIER TO RELIEF.—LEACH V. SCARFF, 188 FED., 447 (ILL.).—*Held,*

that where the manufacturer of a medicine misrepresents himself as a physician and deceives the public as to the ingredients of his product by the use of a fanciful name registered as a trade-name, a court of equity will not enjoin an infringement of his patent right.

The general American rule as laid down by numerous state courts and sustained by the Supreme Court of the United States is, that if a person wishes to have his trade-mark property protected by a court of equity, and it appears that the trade-mark for which he seeks protection is itself a misrepresentation and has acquired a value with the public by fraud, all relief will be denied. *Worden & Co. v. California Fig Syrup Co.,* 187 U. S., 516; *Manhattan Medicine Co. v. Wood,* 108 U. S., 218; *Uri v. Hirsch,* 123 Fed., 568. A material false representation in a trade-mark or trade-name will prevent equity relief though the defendant's act be without justification. *New York & New Jersey Lubricant Co. v. Young,* 77 N. J. Eq., 321. He who seeks the aid of equity must come with clean hands is an old doctrine that still prevails. *Newbro v. Undeland,* 69 Neb., 821. The rule is not limited to representations made by the trade-mark itself, but covers whatever is calculated to deceive the public if used in such connection that it is essential to the success of the trade-mark. *Daderrian v. Yacubian,* 98 Fed. Rep., 872. This rule is of universal application. *New York & New Jersey Lubricant Co. v. Young,* 77 N. J. Eq., 321. As is also the rule that a medicine label falsely representing the manufacturer to be a physician will not be protected by injunction. *Leucke v. Dietz,* 121 Wis., 102.